



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

6/27/2022 5:03:13 PM

Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Auditor TITLE-SERIES: 155-03

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: STANDARDS FOR VOLUNTARY PAYROLL DEDUCTIONS

CITE STATUTORY AUTHORITY: 12-3-13b

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/27/2022 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: V.J. Smith

ADDRESS: Bldg. 1, Suite W-100; State Capitol Building
Charleston, WV 25305

EMAIL: vincent.smith@wvsao.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

This rule authorizes the State Auditor to regulate and grant approval of requests for voluntary payroll deductions from salaries of State officers and employees.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

In 2021, the State Legislature modified the the ability to have third-party deductions and withholdings to be taken from compensation for state officials and employees. This rule standardizes that process.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

None

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

0None

C. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

0None

D. FISCAL NOTE DETAIL:

| Effect of Proposal | Fiscal Year | | |
|------------------------------------|--|--|--|
| | 2022 Increase/Decrease (use "-") | 2023 Increase/Decrease (use "-") | Fiscal Year (Upon Full Implementation) |
| 1. Estimated Total Cost | 0 | 0 | 0 |
| Personal Services | 0 | 0 | 0 |
| Current Expenses | 0 | 0 | 0 |
| Repairs and Alterations | 0 | 0 | 0 |
| Assets | 0 | 0 | 0 |
| Other | 0 | 0 | 0 |
| 2. Estimated Total Revenues | 0 | 0 | 0 |

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

No fiscal impact

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Stephen R Connolly -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 155
LEGISLATIVE RULE
WEST VIRGINIA STATE AUDITOR

SERIES 3
STANDARDS FOR VOLUNTARY PAYROLL DEDUCTIONS

§155-3-1. General.

1.1. Scope. -- This rule authorizes the State Auditor to regulate and grant approval of requests for voluntary payroll deductions from salaries of State officers and employees.

1.2. Authority. -- W. Va. Code §12-3-13b

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Sunset Provision -- This rule shall terminate and have no further effect five (5) years after the effective date.

§155-3-2. Definitions.

2.1. Bi-weekly Pay Period. -- The two-week pay period at the end of which state officers and employees are paid their salaries and wages due, and which periods are maintained by the wvOASIS and State Auditor's HRM systems.

~~2.1. Employee Association: An association related to the employee's type of work or the type of agency where the employee is employed and where participation in the employees association would be beneficial to the individual as an employee or to the employee's agency.~~

~~2.2. First Pay Period: The first pay period is from the first day of the month to the fifteenth day of the month in a thirty day month, the sixteenth day of the month in a thirty one day month or the fourteenth day of the month in February. If the pay date falls on a Saturday, Sunday or a State holiday, the payday is moved to the last working day of the pay cycle.~~

~~2.3. Payroll Deduction: Any amount subtracted from an employee's employees salary, either voluntarily or as mandated by the Federal Government, State Government or a Court of appropriate jurisdiction.~~

~~2.4. Second Pay Period: The second pay period is through the last day of the month from the sixteenth day of the month in a thirty day month, the seventeenth day of the month in a thirty one day month or the fifteenth day of the month in February. If the pay date falls on Saturday, Sunday or a State holiday, the payday is moved to the last working day of the pay cycle.~~

2.5-2.2. Charitable Organization. -- A non-profit organization that solicits monies for a particular cause. The organization must be approved by the West Virginia State Employees Combined Campaign and registered and in good standing with the Secretary of State.

~~2.6.2.3. Commercial Organization. -- A commercial organization or company that offers services to an employee for a premium or fee. The organization must be registered and in good standing with the Secretary of State.~~

2.4. Net Wages. -- The amount of salary or wages payable to a state officer or employee after all deductions for required tax withholdings, including, but not limited to, federal income taxes, state income taxes, Medicare and social security taxes, voluntary contributions to pre-tax deferred compensation programs, or other required or voluntary deductions.

2.5. Payroll Deduction. -- Any amount subtracted from an employee's salary, either voluntarily or as mandated by the Federal Government, State Government or a Court of appropriate jurisdiction. The term shall not include any amount for union, labor organization, or club dues or fees. Each agency is responsible for entry and maintenance of each payroll deduction and retaining appropriate support for its officers and employees.

§155-3-3. State Auditor's Office Responsibilities

3.1. West Virginia Code §12-3-13b authorizes any officer or employee of the State of West Virginia to request from the Auditor that a voluntary deduction be made from his or her wages ~~for membership in an employee association and~~ for supplemental life and health insurance. It also permits the Auditor to authorize and approve other ~~other~~ deductions.

~~3.2. The State Auditor's Office shall have on file copies of the employee's signed authorization for payroll deductions for employee associations, supplemental life and health insurance, or other voluntary deductions.~~

~~3.3.3.2. Approval by the Auditor of plans or documents submitted by employees for participation in voluntary payroll deductions shall not be construed to impose a fiduciary duty upon either the Auditor or the State of West Virginia. Financial support for participation in the plans shall be drawn from voluntary payroll deductions from participating employees and the voluntary payroll deduction does not create an obligation upon State funds or revenues. Resolution or settlement of disputes or losses between participating employees, associations and organizations offering approved plans shall be handled by the appropriate regulatory agency as designated by law. This rules does not prohibit private actions brought by employee participants against ~~an employee association or~~ a commercial organization.~~

§155-3-4. Method of Deductions

~~4.1. A state officer or employee may elect to take 1) one hundred percent of a voluntary deduction during the first pay period of the month, 2) one hundred percent of the voluntary deduction during the second pay period of the month, or 3) the deduction split equally between the two pay periods of the month. Supplemental health or life insurance. Voluntary deductions for monthly premiums for supplemental health or life insurance will be deducted from a state officer's or employee's net wages in equal installments each bi-weekly pay period, unless otherwise approved by the Auditor.~~

4.2. Charitable or other voluntary deductions. Charitable or other voluntary deductions will be deducted from a state officer's or employee's net wages in equal installments each bi-weekly pay period, unless otherwise approved by the Auditor.

§155-3-5. Request for Voluntary Deductions

5.1. To request a voluntary deduction for ~~membership in an employee association~~, supplemental life and health insurance or approved voluntary other deductions, an officer or employee shall complete ~~the form prescribed by the Auditor and submit the completed form to the Auditor.~~ a form to be provided by the supplemental life or health insurance organization, other commercial organization, or charitable organization, as accepted by the employee's agency or department, unless a form is otherwise prescribed or required by the Auditor. The Auditor may require such other information that in his or her discretion is needed to support the deduction.

§155-3-6. Method of Determining Eligibility for Voluntary Deductions

~~6.1. Employee Associations~~

~~An employee association representing state officers and employees who want to authorize a voluntary deduction shall submit the following information to the Auditor: the name and address of the employee association; the function of the employee association; and the number of employees committed to enrollment. The employee association must have at least 50 employees enrolled, and those employees must be from at least two state agencies. The Auditor shall determine if the employee association meets the requirements of Subsection 2.1 of this rule and of this subsection. If the employee association meets the requirements of this rule, the Auditor shall process any authorized voluntary deductions for that employee association.~~

~~6.2. Other Deductions~~

~~6.2.a~~6.1. Charitable Organizations

~~6.2.a~~16.1.1. The Auditor ~~shall~~ may authorize and approve voluntary deductions from a state officer or employee's net wages for contributions to a charitable organization as defined in Subsection ~~2.5~~ 2.2 of this rule: Provided, ~~that~~ that the charitable organization has at least 50 state employees enrolled and the enrolled employees are from at least two state agencies, unless otherwise approved by the Auditor.

~~6.2.b.a~~26.1.2. An eligible charitable organization or a state officer or employee may request that the Auditor make a voluntary deduction for a charitable contribution. If the charitable organization meets the requirements of this rule, the Auditor ~~shall~~ may process any authorized voluntary deduction for that charitable organization.

~~6.2.b~~ Commercial Organizations

~~6.2.b~~16.2.1. The Auditor ~~shall~~ may authorize and approve voluntary deductions from a state officer or employee's net wages for the payment of premiums or fees to a commercial organization defined in Subsection ~~2.6~~ 2.3 of this rule: Provided, ~~that~~ that the commercial organization has at least fifty state employees enrolled and the enrolled employees are from at least two state agencies, unless otherwise approved by the Auditor.

~~6.2.b~~26.2.2. An eligible commercial organization or a state officer or employee may request that the Auditor make a voluntary deduction for a premium or fee for services. If the commercial organization meets the requirements of this rule, the Auditor ~~shall~~ may process any authorized voluntary deduction for that commercial organization.

6.3. Other Voluntary Deductions

6.3.1. The Auditor may authorize and approve other voluntary deductions from a state officer or employee's net wages for the payment of other voluntary deductions, to the extent such deductions are not prohibited by law. Provided, that the other voluntary deduction has at least fifty state employees enrolled and the enrolled employees are from at least two state agencies, unless otherwise approved by the Auditor.